

# Agenda

## Item #4



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

To: Commissioners  
From: Jonathan Wayne, Executive Director  
Date: January 14, 2015  
Re: Report on Status of Investigation of Mailings against Rep. Karen Gerrish

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### Introduction

On November 4, 2014, Karen Gerrish was elected for the first time to the Maine House of Representatives, District 20 (Lebanon, Acton, and a portion of Shapleigh). Following the election, she requested that the Commission investigate two anonymous mailings that were sent close to the election. At your November 24 meeting, you authorized the Commission staff to investigate.

Rep. Gerrish included the two mailings in her request for investigation:

- a postcard urging a vote against her, alleging that she was planning legislation to eliminate hunting on Saturdays, and
- a two-sheet letter advocating against Rep. Gerrish because she would not support state funding for 55% of education costs. These were sent to teachers at the Hanson Elementary School in Lebanon where Rep. Gerrish is employed as a teacher. They were also received by some teachers in Acton, and, apparently, a handful of other people in the district.

The mailings do not include a statement of the name and address of the person who financed them. This is generally required under 21-A M.R.S.A. § 1014 for express advocacy communications. The statute contains some exceptions, however, including an exception for low-cost literature produced independently of candidates, political parties, and other political committees. Depending on the factual circumstances, the mailings may be exempt from the disclaimer requirements, in which case there was no violation of law.

Since December 15, 2014, Acton resident Jim Driscoll has taken responsibility for the mailings. I contacted him because he participated in a conversation at a post office when buying stamps for one of the mailings. Ms. Gerrish heard about the conversation and was able to identify Jim Driscoll.

Mr. Driscoll explained to me that he sent the mailings because of his service on the Acton school board, not because of his involvement in any political party. He says that it has been exhausting and frustrating to see his town's school struggle financially. Mr. Driscoll has been very supportive of higher levels of state funding for education, and personally worked for the citizen initiative to bring the level of state funding to 55%. He followed Karen Gerrish's policy positions during the 2014 election year, and did not trust that she would support the 55% state funding level. He expected that her views on state education funding would be similar to the outgoing State Representative, which disappointed him.

Mr. Driscoll says that, since the election, he has learned more about Karen Gerrish's positions and realizes that he was wrong. He refers to the mailings as a terrible decision and a careless action that he cannot take back. In his January 5, 2015 response to the Commission, he apologizes to his family and to Ms. Gerrish.

Because of the exception in the law, it is not clear at this time whether this situation presents a violation of law. Mr. Driscoll has repeatedly told me that his accounting of the mailing costs is complete (\$81.72) and that he acted independently. I will be presenting the current status of the investigation to you at the January 23 meeting. If you believe further investigation is warranted, I have provided some options at the end of this memo.

#### **Complaint by Karen Gerrish**

Rep. Gerrish's request for investigation is attached, along with samples of the literature she provided. She believes that these mailings misrepresented her positions and were intended to hurt her reputation. She may attend your January 23 meeting to urge you to take action on this matter.

## Relevant Law

Under 21-A M.R.S.A. § 1014(2), paid communications to voters expressly advocating the election or defeat of a candidate, which have not been authorized by any candidate in the race, must identify the name and address of the person who paid for the communication:

**2. Not authorized by candidate.** If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

This subsection makes reference to § 1014(1), which covers various types of express advocacy communications that *are* authorized by a candidate, including direct mail.<sup>1</sup>

Section 1014(6) sets out some categories of paid communications that are exempt from the requirements of Section 1014. Paragraph 6(A) is an exception for literature prepared by one or more individuals independently and without authorization by a candidate or political committee:

Handbills or other literature produced and distributed at a cost not exceeding \$100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a

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<sup>1</sup> Section 1014(1) states: "Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. ..."

candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee ....

21-A M.R.S.A. § 1014(6)(A)

## **Investigative Tasks**

### Telephone Interviews of Jim Driscoll

I first telephoned Jim Driscoll on Thursday, December 11, 2014. He said that he had nothing to do with the mailings. He then called me on Monday, December 15, 2014, and admitted that he was responsible for them. He explained that my first call had caught him off-guard. He said that his first thoughts were of his daughters and of their respect for him, so he denied involvement in the mailings. After a few sleepless nights, he realized he had to accept responsibility for the mailings. So, he called me on December 15. Since then, he has been consistent in describing the number of mailings. A summary of what he told me is described in a section below.

### Emails concerning Cost

On December 24, 2014, I sent Mr. Driscoll notice of your January 23, 2015 meeting and requested factual information, including all payments made for the mailings. He sent me an email response on December 31. On January 5, 2015, he sent me another version of the costs, which accompanied a narrative letter responding to my December 24 questions. After I sought clarifications, he provided additional information in a January 8, 2015 email.

Mr. Driscoll states that the mailings cost a total of \$81.72. An itemization of costs is set out below, under the heading "Cost of Mailing, According to Jim Driscoll."

### January 5, 2015 Narrative Response

Mr. Driscoll called me on January 5, 2015 to ask about the status of this matter. I suggested that he respond to my December 24 request in a letter format, rather than a

brief email. A couple of hours later, he provided by email narrative answers to my questions. The narrative is attached for your consideration.

#### Monthly Account Statements and Receipts

I requested receipts and bank statements that would document the costs that he described by telephone on December 15, 2014. Mr. Driscoll provided monthly bank accounts for his checking account for two months beginning September 22, 2014. These statements contain four purchases at the U.S. Postal Service (discussed below). Selected pages will be provided to you confidentially for the January 23 meeting. He has provided one postal receipt, and apparently has two more that I hope to obtain from him (he tried to attach them to an email, but I did not receive them).

#### Other Interviews

I have also interviewed:

- Karen Gerrish, the Republican nominee and now elected Representative for House District 20.
- Betty Harris-Howard, the Democratic nominee for House District 20. She denied any knowledge of the mailings.
- Harrison Thorp, a write-in candidate for House District 20 in the general election. Mr. Thorp ran against Karen Gerrish for the Republican nomination, and lost. He operates a website concerning community events. He denied knowing anything about the mailings.
- Al Wosmak, the postmaster of Lebanon. He recalled a conversation he had with Mr. Driscoll in late October, when Mr. Driscoll was in the post office purchasing one-hundred 34-cent stamps. (He did not know Mr. Driscoll by name.) Mr. Driscoll affixed the stamps to the postcards and mailed them that day at the Lebanon post office. Mr. Wosmak noted that they opposed Karen Gerrish. In a later conversation with Ms. Gerrish, he mentioned that the postcards were mailed from his post office and described his conversation with Jim Driscoll.

According to Mr. Wosmak, when purchasing the postcard stamps, Mr. Driscoll said he had deposited 500 similar cards into a collection box in Acton, and he

asked why Acton residents had not received them yet. In a follow-up interview on January 6, 2015, Mr. Wosmak told me that that he *thought* Jim Driscoll said that he mailed 500 cards in Acton, but that his recollection of the conversation could be wrong and should not be relied upon.

- Acton Postmaster. I interviewed the postmaster of Acton. She confirmed that her office had received the hunting postcards opposing Karen Gerrish, but she could not confirm how many postcards were mailed to Acton residents.

### **Jim Driscoll's Description of the Mailings**

Jim Driscoll has stated the following, in our December 15 telephone conversation and his January 5 response.

No involvement by candidates or political committees. Mr. Driscoll has said that he acted alone in preparing and sending the mailings. He says that the other candidates in the race (Harrison Thorp and Betty Harris-Howard) and local Democratic committees “had nothing to do” with the mailings. He says that he has never enrolled in a political party.

Lack of knowledge of legal requirements. Mr. Driscoll said that he had no idea that there were laws requiring political mailings to state who paid for them or to state whether a candidate authorized the mailings.

Hunting postcards. With respect to the hunting postcards, he said that he created 200 postcards at his home, by taking 50 sheets of paper and cutting them into four parts. This was paper that he had at home. Mr. Driscoll regularly sends postcard mailings for his work as a realtor.

He says that he mailed 100 postcards to Acton residents in two lots — 45 in the first lot and 55 in the second lot. He sent 92 cards to Lebanon residents, because he bought 100 postcards stamps at the Lebanon post office and has eight stamps remaining.

For the hunting postcards, he obtained the names and addresses of town residents from the websites of the Acton and Lebanon town assessors. He said that there was “no real science” to his selection of the names. He says that he did not use a list of hunters, and the recipients were not selected because he knew them to be hunters.

Mr. Driscoll says that the language for the hunting postcard was taken from a flyer that he found on his windshield in Acton. According to Mr. Driscoll, the flyer stated that it was from the Bull Pine Rod and Gun Club of St. Agatha, Maine. Mr. Driscoll says that he used the language on the flyer for the postcards and that he used the name and post office box of the club as the return address for his hunting postcards.

As best I can determine, the club does not exist. It does not appear on website listings of rod and gun clubs. I have called registered guides in Aroostook County, and they have never heard of it. Another rod and gun club in St. Agatha with a different name previously was active. The postmaster of St. Agatha told Al Wosmak, the Lebanon postmaster, that the post office box is not registered to the club.

On January 5, 2015, I conveyed to Mr. Driscoll that I found this aspect of his story to be implausible, and provided him an opportunity to correct it. He maintains that there was a flyer on his car, and this was the source of the postcard language and the name and post office box for the club. He concedes, however, that he has nothing to do with the club and should not have used the name for the return address.

Education letters. Mr. Driscoll states that he sent a total of 20 letters concerning Karen Gerrish’s lack of support for state funding of public education. He sent the letter to five teachers at the Hanson Elementary School in Lebanon, and sent six letters to teachers that he knew in Acton. The remaining letters went to “random people” that he knew in the community. He says that some of the 20 were shortened versions of the letter received by the teachers.



The education letter contains a photo of Ms. Gerrish at a public event wearing a red shirt with a LePage sticker, seated at a table. During the investigation, I attempted to verify the source of the photo. Mr. Driscoll says that he obtained the photo from the website for the Facebook page for the Acton Town Fair.<sup>2</sup> When interviewing Ms. Gerrish, she offered a hypothesis that Harrison Thorp may have taken at least one photo of her at a community event which could have been a source for the photo.

### Mailing Labels

Mr. Driscoll volunteered that he made an online purchase of mailing labels for \$6.64. The name and address for the labels is the same as the return address on the hunting postcard provided by Karen Gerrish (the Bull Pine Rod and Gun Club). I pointed out to Mr. Driscoll that the hunting postcard and two envelopes that I had received from Rep. Gerrish used handwritten return addresses. He said that he must not have used the labels for some of the mailings, but could not remember why.

### **Costs of Mailings, According to Jim Driscoll**

I have asked Mr. Driscoll to provide me with an accounting of the costs of the mailings. He insists that, since acknowledging the mailings on December 15, he has tried to give me a complete understanding of the costs involved. He has consistently said that he mailed 100 postcards in Acton, 92 postcards in Lebanon, and around 20 mailings on the issue of education.

Mr. Driscoll is a realtor. He says that he prepares postcard mailings for his work. After finally locating receipts for the mailings and considering my requests for clarifications, he provided more information concerning the stamps used for the first Acton mailing. He says that the first Acton mailing consisted of 45 postcards. He used 15 postage stamps that had been purchased for business purposes and that he had on hand, and another 30 postcard stamps that he purchased on October 23, 2014.

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<sup>2</sup> Mr. Driscoll emailed me a link to the URL for the Facebook page where he obtained the photograph. When I opened the page, I saw some content relating to the fair but the formatting was odd and no photo was posted. This might be because of the privacy settings of the fair (it was created as a personal website, not for an organization) or because the photos have been removed.

Mr. Driscoll says that the cost of the mailing is \$81.72:<sup>3</sup>

Date	Vendor	Cost	Explanation Offered by Jim Driscoll
	Postcard stamps on hand	\$5.10	15 postcard stamps used for 1st Acton mailing on 10/23/2014
10/6/2014	500Labels.com	\$6.64	mailing labels
10/23/2014	U.S. Post Office, Sanford	\$20.00	30 postcards stamps used for 1st Acton mailing on 10/23/2014 20 Forever stamps used for education mailings
10/27/2014	U.S. Post Office, Sanford	\$18.70	100 postcard stamps were purchased. 55 postcard stamps were used for the 2nd Acton mailing on 10/27/2014 The remaining 45 stamps (worth \$15.30) were not used for political mailings.
10/29/2014	U.S. Post Office, East Lebanon	\$31.28	92 stamps used for Lebanon mailing. The remaining eight were not used for political mailings.
	<b>Total</b>	<b>\$81.72<sup>4</sup></b>	

The bank statements show an additional purchase of postage (the value of 20 Forever stamps) in the amount of \$9.80:

10/22/2014	U.S. Post Office, Springvale	\$9.80	20 Forever stamps used for personal and family purposes
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Mr. Driscoll states that he used these Forever stamps for personal and family use, and not for political mailings.

<sup>3</sup> In his email statements of his costs, Mr. Driscoll has consistently made one arithmetic error. His totals are understated by \$0.20, because he is calculating the cost of 20 Forever stamps to be \$9.60, when the postal receipts confirm that the actual value is \$9.80.

<sup>4</sup> Between 12/31/2014 and 1/8/2014, Mr. Driscoll has provided by email three total amounts for the cost of the mailings. All three totals are in the range of \$75-\$85. Once examined closely, the changing totals are understandable. In his first total, he included all 100 stamps purchased in Lebanon. In his second and third totals, he subtracted the value of eight unused postcard stamps. In his third total, he also subtracted the cost of 15 postcard stamps that he says he had on hand for business purposes, but did not purchase.

## **Staff Analysis – Options for the Commission**

Under 21-A M.R.S.A. § 1014(2), paid communications to voters expressly advocating the defeat of a candidate, which have not been authorized by any candidate, must contain:

- the name and address of the person who financed the communications;
- a statement that the communication was not paid for or authorized by any candidate.

As noted above, the law contains an exception for literature costing \$100 or less produced by one or more individuals prepared independently of candidates and political committees:

Handbills or other literature produced and distributed at a cost not exceeding \$100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee ....

21-A M.R.S.A. § 1014(2)(6)(A)

In the opinion of the Commission staff, the presence of a violation of law rests on two factors:

1. How much did the mailings cost?
2. Did Mr. Driscoll act independently, or did he have the authorization of a candidate or political committee?

Mr. Driscoll says that he spent \$81.72 on the mailings and acted independently. If these statements are true, then his mailings met the conditions of the exception and no violation of law occurred. Mr. Driscoll insists that he has provided me with a full accounting of the number of items mailed (which has remained consistent) and the costs. The bank statements provided by Mr. Driscoll are supportive of his explanation. There are no

entries in the bank statements showing that he purchased postage stamps for 500 postcards (the number of cards remembered by Al Wosmak).

Nevertheless, there are other factors which may lead you to believe further investigation is necessary to verify the information received to date:

*Credibility of Jim Driscoll.* Mr. Driscoll included a misleading name and address in the return address for the mailings. When contacted by me, he initially denied any involvement in the mailings.

*Source of hunting message.* Mr. Driscoll's explanation of the flyer on the windshield seems far-fetched. There appears to be no such club. It remains unanswered why anyone would use that name and post office box in a windshield flyer concerning a legislative race in York County.<sup>5</sup>

*Information received by Rep. Gerrish suggesting larger mailing.* The strongest evidence that the costs exceeded \$100 is the initial recollection of the Lebanon postmaster that Jim Driscoll told him that he mailed 500 postcards in Acton. That evidence is not strong, however. Mr. Wosmak now says that his recollection could be wrong.

I am reporting back to you the current results of the investigation, which was conducted through procedures that are routine for the Commission staff (interviews, requests for bank records, questionnaires). If you believe that further investigation is warranted, you could:

- require Mr. Driscoll to appear before the Commission and provide sworn testimony
- subpoena a wider category of records (e.g., any email communications relating to the mailings and any other relevant financial records)

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<sup>5</sup> The staff cannot offer any other explanation for why Mr. Driscoll used the hunting theme in the postcard. During the 2014 election year, he put out some lawn signs for Betty Harris-Howard. During my interview of Ms. Harris-Howard, she said that Jim Driscoll once commented to her that Harrison Thorp had said "in his paper" that Karen Gerrish wanted to take guns away from hunters.

The staff would not ordinarily engage in these steps without direction from you.

Thank you for your consideration of this memo.

Karen A. Gerrish

P.O. Box 291

Lebanon, ME 04027

RECEIVED

NOV 20 2014

Maine Ethics Commission

November 17, 2014

Jonathan Wayne, Executive Director

Commission on Governmental Ethics and Election Practices

135 State House Station

Augusta, ME 04333

Dear Director Wayne:

In the recently concluded general election, I was a candidate for the Maine House of Representatives, District #20 which is comprised of the Towns of Lebanon, Acton and a portion of Shapleigh in the County of York.

In the final weeks of the campaign several pieces of mail were sent to some members of those communities. I am enclosing copies of:

- a.) Two (2) envelopes which bear a return address of P.O. Box 0164, 04772 (which is the postal Zip Code for the Town of St. Agatha in Aroostook County).
- b.) One letter consisting of 2 pages which were contained in the envelopes provided and postmarked 29 Oct 2014.
- c.) One postcard which bears the same return address and has the fictitious name of "Bull Pine Rod and Gun".

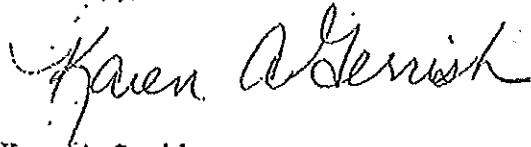
While the information contained in both mailings is incorrect and deceitful, that is not the point of concern which I bring before you. As you can see, neither mailing has any attribution as to the identity of the sender (save for the non-existent Rod and Gun club) nor any disclosure as to the funding source for the mailings. I believe this may very well represent one or more violations of Maine Election Law.

I have retained original copies of the correspondence I am sending to you (there was also a third mailer which I have not been successful thus far in obtaining) which I can hand over to your investigator if requested.

In making some inquiries as to who may have originated these communications I have also obtained some additional information which I am prepared to share with you or your investigator.

Thank you for your attention to this matter and I look forward to hearing from you.

Yours truly,

A handwritten signature in cursive script, reading "Karen A. Gerrish". The signature is written in dark ink and is positioned above the printed name.

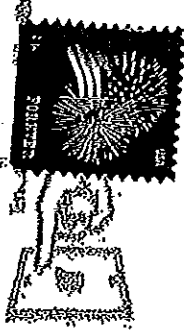
Karen A. Gerrish

Representative-Elect, District #20.

P.O. BOX 0164  
04772

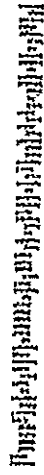
SO. MAINE PSDC 041

29 OCT 2014 PM 2 L



SANDRA DIERZ  
Hanson Elementary School  
53 Upper Guinea Rd  
Gibson ME 04027

040274400E3



P.O. BOX 0164  
04772

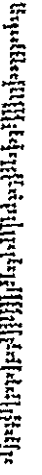
SO. MAINE PSDC 041

29 OCT 2014 PM 2 L



LORRI CLARK  
Hanson Elementary School  
53 Upper Guinea Rd  
Gibson ME 04027

040274400E3





## **We cannot afford another Joan Nass**

Nass voted -

No on education

No -on 55% state funding to pay towards public education

No -on teacher minimum starting salary.

If you vote for Karen Gerrish- you might as well

put Joan Nass back in Augusta. Joan Nass was 8 years of

lost opportunity for the education and funding for Acton children.

Our children deserve better than Joan Nass or Karen Gerrish.

No more party line politicians- the future education of our children is to  
important

## **No on Karen Gerrish**

Characterize people

By their actions

And you will never be

Fooled by their words-

Our children are at stake



## **Karen Gerrish does not support Education-**

Karen Gerrish Does not Support state funding of universal pre-K programs-just like Joan Nass voted while in Augusta

Karen Gerrish Does not support providing state funding to increase teacher and staff salaries- just like Joan Nass voted while in Augusta

Portland Press Herald asked Karen Gerrish about how she would budget and fund Education in Maine K thru 8 October 10,2014.

Karen Gerrish answer "Low and Broad "-

Low and Broad?? What does that even mean??

**There is a reason why MEA- Maine Education Association  
has endorsed her opponent.**

Characterize people

By their actions

And you will never be

Fooled by their words

BULL PINE  
RD 2 and Hwy  
PO Box 01  
04772



St Agatha

LISA Sewell  
PO BOX 237  
Lebanon ME  
04027



**Hunters Get Out and VOTE**

**If Candidate Karen Gerrish plans**

**Legislation to eliminate Saturday hunting hours**

**We vote no - Leave hunting, trapping and fishing  
to Wardens, Biologists and Hunters.**

**Not Clueless Politicians**

**No on Karen Gerrish**

**No on 1**

THE  
SECOND  
AMENDMENT

NO ON 1



## Wayne, Jonathan

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**From:** offshore [REDACTED]  
**Sent:** Wednesday, December 31, 2014 4:02 PM  
**To:** Wayne, Jonathan  
**Cc:** offshore@metrocast.net  
**Subject:** Answers-mailing cost 84 dollars and 24 cents

Dear Mr. Wayne,

Answers to your questions that you forwarded to me.

100 postcards at 34 cents went to Acton.

First postcard mailing I believe was October 27th- 45 postcards were mailed.

The second Acton post card mailing was 55 postcards a couple of days or so after that.

92 post cards went out of Lebanon Post Office on October 29 at 34 cents a piece.

20 letters went out I believe on the 29th of October. The 20 letter mailing cost 9 dollars and 60 cents.

3 of the 20 letters were a bit different with a paragraph or so removed from the letter. I didn't save any of them.

I also bought mailing labels for 6 dollars and 64 cents.

The total cost of the mailings 84 dollars and 24 cents.

Bettie Harris and Harrison Thorp had nothing to do with the mailings. The York County Democrat or Acton Democratic Committees had nothing to do with the mailings.

I have been un-enrolled independent and never have belonged to or subscribed to any political party. I have never been a member of any Democrat or Republican Committee or party.

There were no lists of names when preparing the mailings-

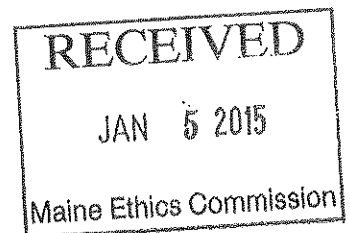
The addresses of people were chosen randomly from Acton's Assessing web site and Lebanon's assessing web site. Chosen at random , I wouldn't know if they were hunters or not.

The five Lebanon teachers names were taken from the Lebanon school website- and mailed to the school I knew Acton teachers and didn't use any web site. The school mailing were about empty promises of state officials funding 55 % and not a candidate.

Nobody paid anything towards the mailings except me.

Thank you,

Jim Driscoll



Dear Mr Wayne,

I just wanted to take a few minutes to respond to your questions. First of all, I accept all responsibility for the mailings. The mailings had nothing to do with any candidate or political party. I have never been a registered voter with either party.

I served six years on the Acton School Committee from 1998 to 2006. I have always been a strong and passionate supporter of public education. Last year I was appointed to fill the remaining one year of a three year term of School Board member Richard Michaud. My appointment ended July first- returning to the Board after several years and witnessing the cuts to programs and staff since 2006 was disheartening to say the least. Back when the state wide referendum was passed to fund education 55%, I worked tirelessly York County wide for the passage of 55% state funding.

Acton is very unique in that we are not a part of an RSU and all state assistance possible is crucial. Acton is a small town standing alone that contracts our high school students to Sanford. So many times over the years I had hoped our legislatures would have funded the 55% law voted in by the people.

I did not run following my appointed one year term due to frustration and disappointment with the lack of funding from Augusta. It felt as though candidates all promised to deliver but never did.

The 20 mailings I sent out in regards to education were sent after reading candidate mailing after mailing without a commitment to funding 55% or education. It was a terrible decision that I made when sending the mailings out and a horrible decision I can never take back. In fact not only was the mailing irresponsible but I have found out the Karen Gerrish is a strong supporter of education and for funding the 55%. This past weekend I was leaving a local supermarket and I was approached by a school teacher. He said, "good news about Karen Gerrish getting elected, we have someone on our side, she's one of us"

After I walked away I was left with a very sad feeling. I thought she was going to be just another person heading to Augusta with empty promises. But it sounds like, that couldn't be further from the truth.

The letter I found on my windshield this past summer about hunting, I didn't really think about until I read somewhere else that Karen Gerrish was in support of Sunday hunting-it was completely opposite of the flier on my car. I mailed the 100 to Acton and 92 to Lebanon to try and get an accurate answer. Again I thought it was a candidate trying to be on both sides of an issue. It appears neither was true or accurate and that she is a supporter of hunting.

I never knew anything about any Maine elections law stating every mailing had to say whom mailed it.

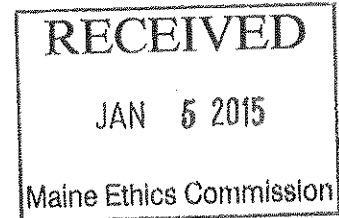
I used the post card address because it was their flyer and information. It was word for word. I take complete responsibility –

I can't take this careless action back-and I apologize to all of the teachers, students and parents that I have passionately fought so hard for over the years on town meeting floor and while representing the children of Acton while on the School Board.

I apologize to my wife and two daughters, and I apologize to your office and the time I have cost you with this issue. Most importantly I apologize to Karen Gerrish- for not talking with her first hand in regards to her views and stances pertaining to education. I let my frustration with state funding and local budgeting get the best of me. It won't happen again; this is the last involvement I will have with any town politics. It is exhausting and frustrating watching the school struggle more and more financially every year. I hope Karen Gerrish goes to Augusta and fights for our district, our schools and our children. More importantly than the politics and political views- the last thing the teacher said to me about Karen Gerrish was "She's a good person". I can't take it back, just a terrible choice- but I am very sorry- especially to Karen Gerrish. I didn't even give her a chance.

Thank you,

Jim Driscoll



As best I can remember the days of the mailings

20 letters went out on the 29<sup>th</sup> of October

Acton 45 on October 27<sup>th</sup>, the second post card mailing was a couple days later or so-55 of them.

92 postcards were mailed at Lebanon Post Office October 29<sup>th</sup>

In regards to expenditures

I mailed 92 postcards in Lebanon \$31.28

100 in Acton \$34.00

20 letters at \$48.00

And labels at \$6.64

A total of \$81.52

Thank you,

Jim Driscoll

**Wayne, Jonathan**

---

**From:** offshore@[REDACTED]  
**Sent:** Thursday, January 08, 2015 10:43 AM  
**To:** Wayne, Jonathan  
**Subject:** Re: Clarifications

Good Morning Mr. Wayne,

Last night I searched and found two more receipts.

I have been running back and forth with a family illness and haven't really had the time to sit and think or search for information.

All the receipts are 34 cent Hummingbird and star spangled Banner that I have found.

The two receipts I forwarded you - I was able to find the Lebanon Hummingbird 100 34 cent stamp on 10/29/

and the Springvale 20- 48 cent stamps also Star Spangled Banner.

A correction- the 20 Springvale home/business stamps are the ones purchased on 10/22-they were not used for the mailings in question.

I cant find receipt for the stamps bought on the 27th in Springvale.

The stamps purchase on the 23rd for \$20.00-

there were 30 - 34 cent stamps bought that day. I had 15 - 34 cent stamps remaining from my work mailings. The 30 bought and 15 from my office were the 45 first Acton post card mailing.

I mailed those 45 within days of buying the stamps on the 23rd. \$15.30 total.

The 20- 48 cent stamps that day - the 23rd were used for the mailing. \$9.80

The stamps I bought on the 27th 100-34 cent stamps were used for the second Acton mailing of 55 post cards. \$18.70

And the 92 post cards sent out in Lebanon were bought on the 29th- \$31.32 for 92 sent.

The labels were \$6.64

Total of \$75.12

There were 20 mailings all together- the seven above the 13 counted for were just random people in town. I cant remember who I sent them to.

There were 20 mailings

The paper used I had at my home, I did not buy any paper or materials for the mailing.

Thank you,

Jim Driscoll



SANFORD MAIN OFFICE  
SANFORD, Maine  
040739998  
2269030073-0098  
10/23/2014 (207)324-3664 11:46:18 AM

Product Description	Sale Unit Qty	Price	Final Price
(Forever)	1	\$9.80	\$9.80
Star-Spangled Banner PSA BKLT/20			
34c	30	\$0.34	\$10.20
Hummingbird PSA			

Total: \$20.00

Paid by:  
Debit Card \$20.00  
Account #: XXXXXXXXXXXX4643  
Approval #: 659976  
Transaction #: 656  
23903210078  
Receipt#: 001888

Order stamps at usps.com/shop or  
call 1-800-Stamp24. Go to  
usps.com/clicknship to print  
shipping labels with postage. For  
other information call  
1-800-ASK-USPS.

\*\*\*\*\*  
\*\*\*\*\*  
Get your mail when and where you  
want it with a secure Post Office  
Box. Sign up for a box online at  
usps.com/poboxes.  
\*\*\*\*\*  
\*\*\*\*\*

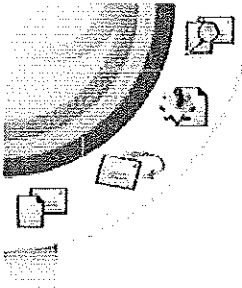
Bill#:1000201710273  
Clerk:16

All sales final on stamps and postage  
Refunds for guaranteed services only  
Thank you for your business

HELP US SERVE YOU BETTER

TELL US ABOUT YOUR RECENT  
POSTAL EXPERIENCE

Go to:  
<https://postalexperience.com/Pos>



[Read Mail](#) [Compose](#) [Search Email](#) [Addresses](#) [Folders](#) [Settings](#) [Help](#) [Logoff](#)

@MAIL

**From:** 500Labels.com <orders@500labels.com>  
**To:** offshore@metrocast.net  
**Subject:** 500Labels.com - Order Confirmation

**Sent:** Mon 10/06/14 12:53 PM  
**Priority:** Normal  
**Type:** Attachments

## 500Labels.com - Order Confirmation



[www.500Labels.com](http://www.500Labels.com)

Thank you for your payment.  
This charge will appear on your credit-card statement as payment to [500LABELS.COM].

### Order Details

**Order ID:** 94655  
**Date Ordered:** October, 6th 2014  
**Payment Method:** Credit or Debit Card

**Email:** offshore@metrocast.net

### Shipping Address

James Driscoll  
986 Sanborn Rd  
Acton, Maine 04001  
United States

### Text on Labels

Sheet of 250  
- LINE01: Bull Pine  
- LINE02: Rod and Gun Club  
- LINE03: PO Box 0184  
- LINE04: 04772  
- OPTIONS: | Block | White | ChristmasTree

### Size

1.75 x 5/8 Labels

### # of Items

1

### Price

\$3.65

### Total

\$3.65

**Sub-Total:** \$3.65

**Shipping & Handling:** \$2.99

**Total:** \$6.64

### Shipping Information:

- **ROLLS of Address Labels:** Please allow **2-3 weeks** for production and delivery, although orders to HI, AK, APO/FPO may take longer.
- Items may ship separately, expect to receive one package for each roll.
- Packages may not arrive on the same day.
- **Sheets of labels** usually arrive 7-10 business days.

Please reply to this email if you have any questions.

[Folders](#) [User Profile](#) [Logoff](#)

## **21-A M.R.S.A. § 1014. PUBLICATION OR DISTRIBUTION OF POLITICAL COMMUNICATIONS**

**1. Authorized by candidate.** Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed the communication. If a communication that is financed by someone other than the candidate or the candidate's authorized committee is broadcast by radio, only the city and state of the address of the person who financed the communication must be stated.

**2. Not authorized by candidate.** If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

**2-A. Other communications.** Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 21 days before a primary election or 35 days before a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

**3. Broadcasting prohibited without disclosure.** No person operating a broadcasting station or cable television system within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

**3-A. In-kind contributions of printed materials.** A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a ballot question. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

**3-B. Newspapers.** A newspaper may not publish a communication described in subsections 1 to 2-A without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.

**4. Enforcement.** A violation of this section may result in a civil penalty of no more than \$5,000, except that an expenditure for yard signs lacking the required information may result in a maximum civil penalty of \$200. In assessing a civil penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it. If the person who financed the communication or who committed the violation corrects the violation within 10 days after receiving notification of the violation from the commission by adding the missing information to the communication, the commission may decide to assess no civil penalty.

**5. Telephone calls.** Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 21 days before a primary election or the 35 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone calls made for the purposes of researching the views of voters are not required to include the disclosure.

**6. Exclusions.** The requirements of this section do not apply to:

A. Handbills or other literature produced and distributed at a cost not exceeding \$100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

B. Campaign signs produced and distributed at a cost not exceeding \$100, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

C. Internet and e-mail activities costing less than \$100, as excluded by rule of the commission, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

D. Communications in which the name or address of the person who made or authorized the expenditure for the communication would be so small as to be illegible or infeasible, including communications on items such as ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section and in electronic media advertisements where compliance with this section would be impractical due to size or character limitations; and

E. Campaign signs that are financed by the candidate or candidate's authorized committee and that clearly identify the name of the candidate and are lettered or printed individually by hand.



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

December 24, 2014

James Driscoll  
986 Sanborn Road  
Acton, ME 04001

Dear Mr. Driscoll,

Thank you for your telephone call of December 15, 2014 in which you acknowledged your responsibility for mailings opposing Karen Gerrish, a candidate for the Maine House of Representatives (District 20), in the November 4, 2014 general election. This letter is to

- notify you that the complaint filed by Rep. Gerrish (attached) will be considered by the Commissioners at a public meeting in Augusta on Friday, January 23, 2015, and
- request factual information, in order to assist the Commission in verifying whether the mailings resulted in a legal violation.

**Relevant Law**

Under Maine Election Law, paid communications expressly opposing a candidate must clearly state the name and address of the person who made or financed the communication. (21-A M.R.S.A. § 1014(2), a copy of the statute is attached). In addition, if the communication is not authorized (*i.e.*, approved of) by any candidate in the race, the communication is required to contain the statement "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE." (§ 1014(2))

Violations of these requirements may result in a civil penalty of up to \$5,000, under § 1014(4).

Section 1014(6)(A) provides an exemption for printed literature costing less than \$100 prepared by individuals who have "act[ed] independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee."

### Request for Factual Information

You told me on December 15 that you were responsible for three mailings opposing Ms. Gerrish: a postcard urging hunters to vote against her, a letter on education issues that you sent to teachers at two schools, and a third letter that you said was sent to two individuals. Please provide the following information by Wednesday, January 7, 2015. I will be including your response in a packet of written materials that I provide to the Commissioners in advance of the January 23 meeting.

1. For each of the three mailings, please provide the number of mailings that you sent.
2. Please list all payments you made in connection with the mailings, including date and amount. Please state the total cost of all three mailings, combined.
3. Did Harrison Thorp or Bettie Harris-Howard authorize the mailings?
4. Did any party organization (such as the Acton Democratic Committee or the York County Democratic Committee), or any political action committee, authorize you to send the mailings?
5. Did you use any lists of names and addresses in preparing the mailings? If so, please identify those lists and how you used them.
6. Did you specifically identify individuals who were hunters or who worked in education to receive the mailings? If so, please explain how.
7. Did anyone else make any payments in connection with the mailings, such as compensate you or reimburse you for your costs?

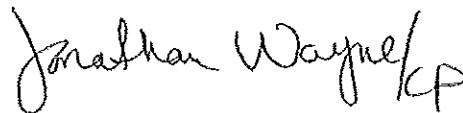
Please include any other response you would like to make to Rep. Gerrish's complaint.

### Opportunity to Respond in Person

At the Commission's meeting, I expect the Commissioners will decide whether the mailings violated 21-A M.R.S.A. § 1014. If they decide that a violation occurred, they may assess a civil penalty of up to \$5,000. You may respond to Ms. Gerrish's complaint by attending the Commission meeting. The meeting will begin at 9:00 a.m. on Friday, January 23, 2015 at the Commission office, 45 Memorial Circle, 2<sup>nd</sup> Floor, in Augusta.

Thank you. Please call me at 287-4179 if you have any questions about this matter.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Wayne" followed by a stylized monogram "KP".

Jonathan Wayne  
Executive Director

cc: Hon. Karen Gerrish (w/o complaint)